



Community Newsletter

The Voice of Condominium, Civic, & Homeowner Associations of Pasco County

Volume 4 - Issue 9

Council of Neighborhood Associations, Inc. since 1985 - Incorporated 1987

December 2006



Board of Directors

Officers

President

Dominick Scannavino 789-1284
ext 228
dscannavino@mgmt-assoc.com

Vice-President

Ron Hubbs 863-0392
msheahubbs@aol.com
Membership Chairman

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Florence Weber 376-2001
*Newsletter Editor hogan1@gte.net

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sallyscle@netzero.net

Directors

Pat Gorecki 846-0143
Program Chairman

Hans Kaehler 863-0368
HansKaehler1@verizon.net

Ernie Reed 869-8991
ereed9@tampabay.rr.com

Government Committee

Reynolds Smith Sr. 863-0734
ReynoldsSmithSr@msn.com

Jim Turtle 938-3878
Government Committee

Newsletter Website

www.magnoliavalley.org

COUNCIL OF NEIGHBORHOOD ASSOCIATIONS 17TH HOLIDAY APPRECIATION BREAKFAST



When - Wednesday, December 13, 2006

Where - Heritage Springs Country Club,
11345 Robert Trent Parkway, Trinity, Fl

Time - Breakfast served promptly at 9:30 a.m.

Entertainment - Dayspring Academy, School for
Performing Arts, will present a
" Holiday Musical Review"

Tickets are \$15. Tickets can be purchased by mail. Call any Board of Directors for information and/or tickets. Leave a telephone number, if necessary, for a return call. Space is limited. Many tickets were sold at the last members meeting so don't delay too long to make your reservations. Deadline for tickets is December 8.

NEW THIS YEAR: Door Prizes! Donated by Skip's Christmas House, Publix, and Sam's Hudson Beach Restaurant,

From Your Board of Directors

It was with great anticipation that we began 2006. We'd like to thank the past president of C.O.N.A., Mel Phillips, and past board members for the outstanding work they have done to bring C.O.N.A. to it's present positive position. Your trust in C.O.N.A. is what keeps us moving forward to accomplish new and exiting projects.

This is an exciting time of year where we can reflect on past accomplishments, both with associations, Pasco County personnel, and the State of Florida legislators. We are looking forward to another great year and we wish to thank members, both dedicated and new, for supporting C.O.N.A. by their attendance at our meetings. Our invited speakers deserve credit for their time and expertise in their presentation of educational subjects. We've heard many nice compliments on the choice of past invited speakers. We will continue to invite speakers who will help us grow and educate us on various subjects

We can finally relax in anticipation of the next Hurricane on the horizon for 2006. 2005 was a very trying year with one Hurricane after another, but this year we were blessed with a calm late summer and fall season. You can all uncross your fingers until next fall. It worked!

Our financial resources are stretched thin, but we are hoping present members continue to financially support C.O.N.A., and more associations and individuals continue to join C.O.N.A. Our members can help by relaying to their acquaintances the good C.O.N.A. does for associations, and hopefully, will bring someone with them when attending our meetings.

We look forward to next year in our conquest to educate our members in the workings of their documents in an ever changing environment.

Again, we thank everyone for attending our meetings and participating in those meetings.

At this Holiday Season our thoughts turn gratefully to those who have made our progress possible.

Wishing you all the best of the holidays

Season's Greetings

CONA Online Newsletter Update

If you want to check out our Newsletter at Magnolia Valley's Website you will need to have Adobe Reader. Our online Newsletter is in color. Below is an update on Adobe Reader.

ADOBE READER 7.0.8 FOR WINDOWS

Problem: Adobe discovered several security and performance issues, including frequent crashes, in Adobe Reader for Windows.

Resolution: Download and install v.7.0.8, an 8MB update for Adobe Reader. Visit www.adobe.com/support/downloads and select Adobe Reader - Windows from the Product menu and Go. Under Updates/Programs, click Adobe Reader 7.0.8 Update - Multiple Languages. If you currently have v.7.0.6 or v.7.0.7, click the Proceed To Download button and then click the Download Now button. Save the file to your hard drive. After the download is complete, double-click the file (AdbRdrUpd708_all_incr.exe). If you currently have v.7.0.5 or an earlier release of Reader, go to www.adobe.com/products/acrobat/readstep2.html to download the full version of Adobe Reader 7.0.8, which is a 27.7MB file. Click the Download button and click Run. If you see a Security Warning dialog box, click Yes.

Permission to reprint from *Smart Computing*, the October issue 2006, page 82. If you would like to receive a RISK-FREE trial issue of *Smart Computing*, please contact Customer Service at 1-800-733-3809 or visit www.smartcomputing.com. Cona is not endorsing this procedure, but found it worth passing on to our computer users. □

ASK THE EXPERT - Peter M. Dunbar of Pennington Law Firm

Q. Is it true that if an association is considering taking a resident to court, if the resident doesn't ask that the procedure go to mediation the case can go directly to court?

A. The provisions governing **mediation of disputes** between the homeowners association and a lot owner are found in section 720.311, Florida Statutes, which was enacted by the Legislature in 2004 and became effective on October 1, 2004. Disputes arising prior to that date could have been pursued in court without an intervening requirement to consider mediation. **After October 1, 2004**, however, Section 720.311 requires mediation of most disputes through the Department of Business and Professional Regulation (DBPR) before going to court. Exceptions to the requirement are identified in Section 720.311, and they include election and recall disputes which **must** be arbitrated.

BIO: Peter Dunbar is an attorney specializing in condominium and homeowners association matters. He is the author of "The Law of Florida Homeowners Associations" published by Pineapple Press, and he is an Adjunct Professor at the College of Law at FSU where he teaches Condominium and Mandatory Homeowners Association Law. □

INSTRUCTIONS FOR NOT-FOR -PROFIT ARTICLES FOR INCORPORATION >> (See insert)

Since many associations have their annual meetings this time of year and after the holidays, the following instructions should be considered.

When the form is filled out, if there are directors listed on the left of the form and they are re-elected to the board, there is no need to put an x in the delete square on the left and list the name on the right as a new director. The previous director can stay on the left without any comment. Only the new directors should be listed in the right column. When signing the form sign and print the name at the very bottom of the form, date and put a telephone number in the proper space as required.

BELOW ARE THE BASICS FOR THE DIVISION OF CORPORATIONS.

Organizations should call 1-800-829-1040 if they wish to claim exemption from federal tax obligations as described in section 501 (c) of the Internal Revenue Code. Chapter 496, F.S., requires charitable organizations or sponsors intending to solicit contributions from the public in the state of Florida to register annually with the Division of Consumer Services. They may be reached at (850) 488-2221 or 1-800-435-7352 for more information.

Pursuant to Chapter 617.0202, F.S., the articles of incorporation must set forth the following:

Article I: The name of the corporation must include a corporate suffix such as Corporation, Corp., Incorporated, or Inc.; "**Company**" or "**Co.**" may not be used as a corporate suffix by a nonprofit corporation.

Article II: The principal place of business and mailing address of the corporation.

Article III: The specific purpose or purposes for which the corporation is organized. A general statement of "**any and all lawful business**" will not be sufficient.

Article IV: The manner in which the Directors are elected or appointed.

Article V: The names, address and titles of the Directors/Officers. When naming Directors, at least three must be listed. The names of officers/directors may be required to apply for a license, open a bank account, etc.

Article VI: The name and Florida street address (P.O. Box NOT acceptable) of the initial Registered Agent. The Registered Agent must sign in the space provided and type or print his/her name below signature accepting the designation as Registered Agent.

Article VII: The name and address of the Incorporator. The Incorporator must sign in the space provided and type or print his/her name below signature.

For further information go to www.Corporations + Florida or www.Sunbiz □

IMPORTANT INSTRUCTIONS

- Make check payable to Florida Department of State.
Check must be payable in United States Funds and through a United States Bank.
- Submit report with a separate check for each filing.
- Changes must be typed or printed in ink and legible.
- Sign report in block 12.
- * The fee to file the not-for-profit annual report is \$61.25. If a certificate of status is desired, please add an additional \$8.75. Only one certificate may be requested.

- Block 1. Block 1 is preprinted with the name, document number, mailing address and principal place of business as last reported to our office. You cannot change the name on this form. You must file an amendment to change the name. For amendment information, call (850) 245-6050, or download forms at www.sunbiz.org.
- Block 2 & 3. If the principal place of business address in Block 1 is incorrect, enter the correct address in Block 2. If the preprinted mailing address in Block 1 is incorrect, enter the new mailing address in Block 3. A Post Office Box is acceptable.
- Block 4. If blank, complete Block 4 by entering your Federal Employer Identification (FEI) number or checking either applied for or not applicable. FEI numbers are not assigned by the Division of Corporations. For assistance with FEI numbers, call the IRS at (800) 829-1040.
- Block 5. Should you desire a certificate reflecting your entity's status after the filing of this report, check the BOX in Block 5 and include an additional \$8.75 with your filing fee. Only one certificate can be issued at the time of the report filing.
- Block 6. The law requires that each entity have a Registered Agent with a Florida street address. If the information in Block 6 is incorrect, enter the correct information in Block 7. There is no additional fee to change the Registered Agent on this form.
- Block 7. If a new Registered Agent has been appointed, enter the new agent's name and/or address in box 7. This must be a Florida Street address. A P.O. Box or mail service (PMB) is NOT acceptable for service of process. A CORPORATION CANNOT SERVE AS ITS OWN REGISTERED AGENT; however, a principal of the corporation can.
- Block 8. The new Registered Agent must accept the obligations and this appointment by completing and signing in Block 8. No signature is necessary if the same Registered Agent is retained. If the Registered Agent is a different entity, the person signing must state their position with the entity. NOTE: Registered agent signature required when reinstating on this form.
- Block 9. Florida law allows for a voluntary contribution of \$5.00 per taxpayer for the purpose of providing for public financing of political campaigns for the offices of the Governor and members of the Cabinet. If you would like to contribute, check the box in Block 9 and include an additional \$5.00 with the filing fee.
- Block 10. Block 10 contains the officers/directors last reported to our office. If blank, you must list the name and address of all officers/directors in Block 11. Please do not make any marks in Block 10 unless deleting an officer; corrections or additions are to be made in Block 11.
- Block 11. Block 11 is for changes or additions to the existing Officers/Directors in Block 10. Changes must be typed or printed and legible. List all officers/directors. Attach a separate sheet if necessary. Use the following type symbols on the title line: P=President; V=Vice President; T=Treasurer; S=Secretary; D=Director; C=Chairman; M=Managing Director. If a person holds more than one position, enter all positions, e.g., S/D; V/S; V/T/D. A FLORIDA NON-PROFIT CORPORATION IS REQUIRED TO MAINTAIN AT LEAST 3 DIRECTORS OR TRUSTEES. THE LETTER "D" OR "T" SHOULD BE PLACED BY THE NAME OF EACH DIRECTOR. NOTE: A DIRECTOR MUST BE A NATURAL PERSON 18 YEARS OF AGE OR OLDER. NOTE: If officer or director's address is confidential pursuant to Chapter 119, Florida Statutes, an alternate address must be provided. Officers/Directors must provide an address. Florida Statutes require a physical address be given. The provision of a post office box in Block 10, 11 or on an attachment is an affirmation under oath that no other address is available.
- Block 12. This report must be signed in Block 12 with an original signature by an officer/director of the entity that is listed in Block 10, Block 11 if a change, or on an attachment with a street address. If the entity is in the hands of a receiver, it must be signed by the trustee or receiver. A signature placed on an attachment in lieu of placement in Block 12 is unacceptable.

Mail completed report to:

Division of Corporations
P.O. Box 1500
Tallahassee, FL 32302-1500

Courier Address (overnight delivery)
Division of Corporations
2670 Executive Center Circle
Suite 100
Tallahassee, FL 32301

Questions?

Phone: (850) 245-6056
Hearing/Voice Impaired may call (850) 245-6096 (TDD)

INFORMATION REGARDING RETURNED CHECK

If the check submitted with this report is returned by a bank for any reason, the report will be cancelled and considered not filed. The Department of State will dissolve/revoke the entity if a replacement payment with service charge and report are not resubmitted within the prescribed time frame.

PASCO SHERIFF'S NEWS
RESIDENTIAL NOISE

A common complaint we receive at the Pasco Sheriff's Office concerns residential noise. I would like to educate citizens in how the law governs noise complaints and the best way for citizens to address this quality of life issue. There is both a local county ordinance and other state laws that govern this problem

The local county ordinance deals specifically with noise. Many complaints in this area are due to construction-created noise. No noise arising from construction activities that exceeds 55 decibels is permitted between the hours of 10 p.m. and 7 a.m., Monday through Saturday, and all day Sunday. The noise level is measured at the nearest property line of an adjacent residential area. Construction equipment that must be operated 24 hours a day, such as a well pump, must have an acoustical shield device, unless the sound is less than 55 decibels. As a point of reference, normal conversation averages about 60 decibels and a doorbell averages about 80 decibels.

Another complaint received by us concerns loud stereos and television sets. For these devices, the county ordinance prohibits their noise from exceeding 66 decibels from 7 a.m. to 6 p.m., and 60 decibels from 10 p.m. to 7 a.m., as measured from the property line of the sound source. For multi-family dwelling units, it is unlawful to create any noise that exceeds 40 decibels as measured from inside the adjoining neighbor's unit during the same time frame.

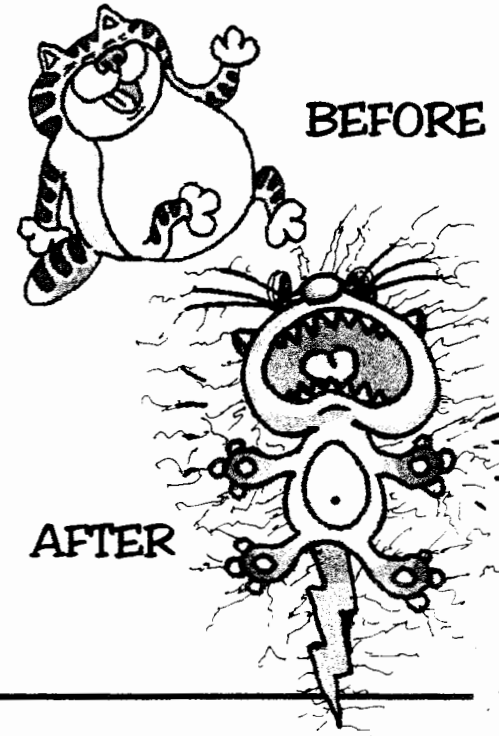
For problems with loud car stereos traveling on the roadways, deputies can cite someone under the state motor vehicle law, which was modified this year. It now prohibits such high sound levels that can be heard from 25 feet away from a vehicle, or louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools or hospitals.

Although my deputies are able to enforce county ordinances, code enforcement officers from the Pasco County Code Compliance Office are best equipped to handle noise complaints during normal working hours. These hard-working officers have decibel meters to measure noise. However, according to the local ordinance, a

measurement is not required if the sound-creating device disturbs the peace, quiet and comfort of the neighborhood. A deputy or code enforcement officer who personally hears the noise may cite a violator without involvement from citizens, but several citizen statements always increase the strength of a noise complaint case. State law also has a section pertaining to disturbance of the peace. This statute requires a citizen as a witness or complaint.

Most citizens are compliant with laws concerning noise complaints. The Pasco Sheriff's Office is committed to ensuring compliance with those who purposely and continuously violate the law. As with most crimes, the cooperation of the citizens involved can help us to make a strong case and prevent future incidents from occurring.

ON THE BOARD!!!

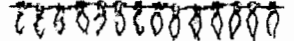


PASCO - DECEMBER EVENTS

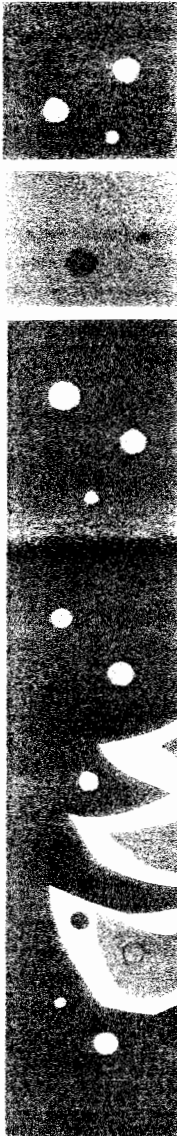
Dec. 1 - 7 pm *MAGICAL NIGHT CHRISTMAS PARADE
 Downtown Dade City (352) 567-3769

Dec. 1-3 *MAIN STREET HOLIDAYS
 Downtown New Port Richey (727) 84208066
 Santa & Mrs. Claus, ice skating, the River Lights Boat Parade on Saturday, great shopping deals and more!
 The Annual Christmas Street Parade is Dec. 9 and begins at 7 p.m. www.nprmainstreet.org

Dec. 2 *COUNTRY CHRISTMAS OPEN HOUSE
 10 am - 5 pm Pioneer Florida Museum & Village, Dade City
 (352) 567-0262 www.pioneerfloridamuseum.org
 Can Grinding & Syrup Making, Garden Tractor Pull, children's activities, entertainment and food. Free admission with the donation of a new unwrapped toy or supply.

Dec 2 FESTIVAL OF LIGHTS 
 10 am - 9 pm Downtown Zephyrhills (813) 780-1414,
www.mainstreetzephyrhills.org Homemade crafts, bike & gift raffle, parades and much more.

Dec. 9 ANNUAL COUNTRY CHRISTMAS STROLL
 5 - 9 pm Downtown Dade City (352) 567-09284
www.dadecitychamber.org



CONDOMINIUM AMENDMENT

- An act relating to condominiums; amending s.718.117, S.S.; substantially revising provisions relating to the
- termination of the condominium form of ownership of a property;
 - providing legislative findings;
 - providing grounds for termination;
 - providing powers and duties of the board of administration of the association;
 - waiving certain notice requirements following natural disasters;
 - providing requirements for a plan of termination;
 - providing for the allocation of proceeds from the sale of condominium property;
 - providing powers and duties of a termination trustee;
 - providing notice requirements;
 - providing a procedure for contesting a plan of termination;
 - providing rules for the distribution of property and sale proceeds;
 - providing for the association's status following termination;
 - allowing the creation of another condominium by the trustee;
 - specifying an exclusion;
 - providing an effective date.

Be it Enacted by the Legislature of the State of Florida

Editors Note:

The full text can be downloaded from the Florida Senate Website. Look for SB 1556. It is 16 pages long and is something condominiums should have in their board library.

There is **substantial** wording of this bill.

Headings include:

1. Legislative findings
2. Termination because of economic waste of impossibility
3. Optional Termination
4. Jurisdiction for plan-of-termination review
5. Exemption
6. Mortgage Lienholders
7. Powers in Connection with Termination

8. Natural Disasters
9. Reports and Replacement of Receiver
10. Plan of Termination
11. Plan of Termination; Required Provisions
12. Plan of Termination; Optional Provisions; Conditional Termination
13. Allocation of Proceeds of Sale of Condominium property
14. Termination Trustee
15. Title Vested in Termination Trustee
16. Notice
17. Right to Contest
18. Distribution
19. Association Status
20. Creation of Another Condominium
21. Exclusion □



BUSINESS JUDGMENT RULE

617.0830 General Standards for Directors

(1) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:

- (a) In good faith;
 - (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - (c) In a manner he or she reasonably believes to be in the best interests of the corporation.
- (2) In discharging his or her duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
- (b) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the persons' professional or expert competence; of
- (c) A committee of the board of directors of which he or she is not a member if the director

reasonably believes the committee merits confidence.

(3) Director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) Director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section. □



ON the BOARD

by Nichole I. Washington, cmca, ams

ASK YOURSELF THIS

If you've been involved with associations for even a little while, you've probably been privy to a situation in which a well-meaning board that doesn't quite grasp its own authority is led into a bad decision. One way to avoid that is by understanding the business judgment rule and recognizing its importance to successful association operations.

To start, your board members must realize that, although they are themselves residents of the association, they must base their decisions on what is good for the entire community. Whenever you're confronted with a decision, it's a good idea to first ask yourself three questions:

1. Would I make this same decision if I were not personally affected?
2. Have I done all the necessary research to make an informed decision for the betterment of the association?
3. Am I able to make an unbiased decision based on the facts of this project, without any conflict of interest?

Your board members should be able to answer "yes" to each question—meaning the board is complying with the business judgment rule. If you treat the rule not as a nuisance but as a valuable tool, you'll help protect your community, your residents, your board, and yourself.

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